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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,777	09/19/2001	James R. Geary	1632A1	9740

7590

07/16/2003

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EXAMINER

VO, HAI

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 07/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/955,777

Applicant(s)

GEARY ET AL.

Examiner

Hai Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2, 4 and 6-27 is/are pending in the application.
- 4a) Of the above claim(s) 26 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 2, 6-20, 22-25 is/are rejected.
- 7) ☒ Claim(s) 4 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1, 3, and 5 have been cancelled in the amendment received on 04/30/2003.

***Election/Restrictions***

2. Applicant's election with traverse of Group I, 1-25 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the reasoning for the restriction requirement in the previous office action is improper. However, the examiner respectfully wishes to point out that the process for using the product as claimed can be practiced with another materially different product such as the restraint made of one layer of a foam material instead of a two-layer laminate. Therefore, the examiner maintains that the restriction requirement is deemed necessary and proper.
3. Applicants are reminded of their right to request rejoinder of method claims with the product claims upon indication of the product claims as being allowable. See *In re Ochiai* 37 USPQ2d 1127.

***Claim Objections***

4. Claims 10, 18, 22 and 24 are objected to because of the following informalities: In claims 10, 18 and 22, the phrase "(0.2 kilograms/square meter to 0.6 square/square meter)" needs to be deleted. Since the range of 3 to 9 lb/in<sup>2</sup> is equivalent to that of 0.2 to 0.6 kg/m<sup>2</sup>, there is no need to include both ranges in the claim. In claim 24, line 5, the term "the" before -at least- needs to be removed to avoid grammatical errors. Appropriate

correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 2, 6, 7, 11, 14-16, 20, and 23-25 are rejected under 35

U.S.C. 102(b) as being anticipated by Moehring (US 3,938,660)

substantially as set forth in Paper no. 6. Moehring discloses a composite packing for shipping a stack of glass sheets comprising a base 35, a plurality of glass sheets carried on the base, at least one pad 50 located along the two opposed edges of the glass sheet wherein the pad 50 is comprised of a plastic or fiber sheet material layer and a rigid tubular runner 51 of plastic or wood extending along the pad 50 and through the runner 51 the banding strap 41 is threaded (column 4, lines 45-49, figure 1). The pad 50 is L-shaped and provided with raised portions 52, 53 having a strap retainer portion 54. The raised portion 52, 53 corresponds to the claimed attachment member whereas the strap retainer portion corresponds to the claimed slot. With regard to claim 24, figure 1 of Moehring shows a plurality of flat glass sheets 58 carried on the base 35 and a back wall 25 secured to the base wherein the fastening member 41

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biases at least on laminated restraint and the glass sheets toward the back wall 25.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-10, 12, 13, 17-19, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moehring (US 3,938,660) as applied to claim 2 above, and further in view of Maurice (US 4,851,286) substantially as set forth in Paper no. 6.

***Allowable Subject Matter***

9. Claims 4 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the prior art discloses or suggests the restraint in either claim 1 or 16 wherein adjacent ends of the first and second legs are spaced from one another and the vertex comprises a groove in the second surface of the outer layer.

***Response to Arguments***

10. The 102 art rejections over Insley or Maurice or Lastik have been overcome by the present amendment and response.
11. The 103 art rejections over Moehring taken alone have been overcome by the present amendment.
12. The 102 art rejections over Moehring have been maintained because of the following reasons. The arguments that Moehring does not disclose the laminated restraint having an attachment member are not found persuasive. The pad 50 is L-shaped and provided with raised portions 52, 53 having a strap retainer portion 54. The raised portion corresponds to the claimed attachment member whereas the strap retainer portion corresponds to the claimed slot.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on Tue-Fri, 8:30-6:00 and on alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV  
July 9, 2003

  
TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
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